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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/589,585	06/07/2000	Jennifer Pearson	003801.P025	8996
49845	7590	08/23/2005	EXAMINER	
SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.			NGUYEN, MAIKHANH	
EBAY			ART UNIT	
P.O. BOX 2938			PAPER NUMBER	
MINNEAPOLIS, MN 55402-0938			2176	

DATE MAILED: 08/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/589,585

Applicant(s)

PEARSON ET AL.

Examiner

Maikhanh Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 and 19-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 and 19-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>06/15/2005</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is responsive to communications: Amendment filed 06/15/2005 to the original application filed 06/07/2000.
2. Claims 1-15 and 19-26 are currently pending in this application. Claims 16-18 have been canceled. Claims 25-26 have been added. Claims 3 and 19 have been amended. Claims 1, 13, 19, and 25-26 are independent claims.

Specification

3. Claims 8-9 and 11 are objected to because of the following informalities:
 - a. parentheses used in claims 9 and 11 should be removed; and
 - b. “the utility” (claim 8) should read “the utility program”.

Appropriate correction is required.

Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for the purposes of this subsection of an application filed in

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the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language; or " (Emphasis added.)

Claims 1-15 and 19-23 are rejected under 35 U.S.C. 102(e) as being anticipated

Hess et al. (U.S. 6,415,320 – filed 04/2000).

As to independent claim 19:

Hess teaches a computer system (*a computer system 300; col.4, line 24*)

comprising:

- (i) a processing unit (*a processor 302; col.4, line 28-29*);
- (ii) a memory (*main memory; col.30-34*) coupled to the processing unit through a system bus (*bus 301; col.4, lines 29-30*);
- (iii) a computer-readable medium (*a computer-readable medium; col.3, lines 44-45*) coupled to the processing unit through the system bus, and
- (iv) an instruction (*instructions*) embedded in a markup language document (*Hypertext Markup Language/web documents*) in the memory to cause the processing unit to execute a utility program (*Web browser*) from the computer-readable medium (*col.4, line 9*), wherein the utility program causes the processing unit to determine a number of images (*Images are harvested from a plurality of sites based upon user-supplied information; see the Abstract*) to display in the markup language document, select the number of images, and place the selected images in the markup language document (*Thumbnail images are created corresponding to the harvested*

images and are aggregated onto a web page; see the abstract and col.3, lines 17-26).

As to dependent claim 20:

Hess teaches the utility program causes the processing unit to place the selected images in a location defined in the instruction (*Thumbnail images are created corresponding to the harvested images and are aggregated onto a web page for presentation at a remote site; see the abstract).*

As to dependent claim 21:

Hess teaches the instruction specifies the number of images to display (*a user query, such as a request for a particular page within a particular category, a list of items is displayed; col.9, lines 49-52).*

As to dependent claim 22:

Hess teaches an administration program that causes the processing unit to create a group of images from which to select the number of images (*thumbnail images are accessed from the thumb server by item number; col.9, lines 12-23).*

As to dependent claim 23:

Hess teaches the computer system is a web server (*web server*) and the markup language document is a web page (*Web document*) (*col.4, lines 1-10).*

As to dependent claim 24:

Hess teaches the web page contains images (*images*) of items (*items*) being auctioned (*auction*) on a web site (*online commerce*) hosted by the web server (*col.9, lines 45-59).*

As to independent claims 13 and 26:

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The rejection of independent claim 19 above is incorporated herein in full.

Additionally, Hess further teaches:

- (i) obtaining a set of random numbers corresponding to the number of images
*(thumbnail images are accessed from the thumb server by item number...
references to the thumbnail images; col.9, lines 12-23); and*
- (ii) receiving images from a group of images using the set of random numbers *(In
response to a user query, such as a request for a particular page within a
particular category, a list of items is displayed; col.9, lines 42-59).*

As to independent claims 1 and 25:

The rejection of independent claim 19 above is incorporated herein in full.

Additionally, Hess further teaches:

- (i) dynamically selects an image *(automatically harvest images; col.3, lines 17-
19 and col.7, lines 6-9); and*
- (ii) selecting, by the utility program, a pre-determined number of images from a
group of images, the pre-determined number being specified in the instruction
*(Images are harvested from a plurality of sites based upon user-supplied
information...base upon a user-specified image; see the Abstract).*

As to dependent claim 2:

Hess teaches a gallery containing images available for display *(a Gallery
presentation format ...thumbnail images of the items; col.5, lines 11-19).*

As to dependent claim 3:

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Hess teaches choosing the images for the pool from a gallery containing images available for display using an administration tool (*Gallery presentation ... includes thumbnail images ...a set of images have been harvested; col.5, lines 1-26*).

As to dependent claim 4:

Hess teaches obtaining filtering criteria (*a user query; col.9, line 49-52*); identifying an image from the gallery based on the filtering criteria (*the item to show up in user query; col.7, lines 15-19*); and adding the identified image to the pool (*the thumbnail images stored on the thumbnail server; col.9, lines 15-17*).

As to dependent claim 5:

Hess teaches examining information associated with the image against a set of standards and discarding the image if the information does not meet the standards (*response to a user request incorporates thumbnail for fast review; col.6, lines 41-50*).

As to dependent claim 6:

Hess teaches deleting an image from the pool (*reload images and update thumbnails associated with items; col.6, lines 29-40*).

As to dependent claim 7:

Hess teaches the markup language document is a web page (*Web document; col.4, lines 1-10*) and the instruction is a tag in a proprietary format (*HTML may contain image tags referencing; col.6, lines 45-48 & an inline image tag can be generated having the general form: ; col.9, lines 19-22*).

As to dependent claim 8:

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Helfman teaches the utility is invoked when the tag in the proprietary format is processed during a compile of the web page format (*converts it to the appropriate format; col.7, lines 6-10*).

As to dependent claim 9:

Hess teaches widget identifier (*image from an array of relative offset, such as index 1010; col.10, lines 26-29*), number of images (*images; col.9, lines 61-62*), display parameters (*fixed-sized display area; col.9, lines 61-62*).

As to dependent claim 10:

Hess teaches a size parameter (*the thumbnail image will be approximately 1 inch x1 inch or smaller ... thumbnail images are approximately 96 pixelsx96 pixels; col.3, lines 28-32 & col.7, lines 8-9*) and a location parameter (*the image location may be massaged to have correct URL syntax; col.7, lines 40-65*).

As to dependent claim 11:

Hess teaches widget identifier (*image from an array of relative offset, such as index 1010; col.10, lines 26-29*), category identifier (*a request for a particular page...within a particular category; col.9, lines 49-52*), number of images (*images; col.9, lines 61-62*), display parameters (*fixed-sized display area; col.9, lines 61-62*).

As to dependent claim 12:

Helfman teaches validating the pre-determined number of images against validation criteria; and substituting a different image for an image that fails the validation (*see fig.5 and the accompanying text beginning at col.6, line 29*).

As to dependent claim 14:

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Hess teaches validating the retrieved images against validation criteria; and retrieving a replacement image from the group of images if a retrieved image fails the validation (*see fig. 7 and the accompanying text beginning at col. 8, lines 7-54*).

As to dependent claim 15:

Hess teaches determining a location in the document for each of the retrieved images from an instruction embedded in the document (*specifying a image location, such as directory path ... the scheme-specific part is "www.ebay.com.";* *co. 7, lines 40-65*).

Response to Arguments

5. Applicant's arguments filed 06/15/2005 have been fully considered but are moot in view of the new ground(s) of rejection.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Yonezawa et al.	U.S. Patent No. 5,905,973	Issued: May 18, 1999
Wical	U.S. Patent No. 5,918,236	Issued: Jun. 29, 1999
Xue	U.S. Patent No. 5,956,709	Issued: Sep. 21, 1999
Hess et al.	U.S. Patent No. 6,058,417	Issued: May 2, 2000
Chow et al.	U.S. Patent No. 6,850,899	Issued: Feb. 1, 2005

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Maikhanh Nguyen whose telephone number is

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(571) 272-4093. The examiner can normally be reached on Monday - Friday from 9:00am – 5:30 pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Herndon can be reached on (571) 272-4136.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MN

William L. Bashore
WILLIAM BASHORE
PRIMARY EXAMINER
8/18/2005